A4 cmcld.

~~44.~~ 2 The method of claim 43, further comprising contacting the erythroid progenitor cells with an amount effective to augment erythropoiesis of erythropoietin.

The amendments are made simply to clarify the claims, or to add further limitations to the originally filed claims, and thus do not constitute new matter. The amendment to claim 1 to delete the term "consisting" from the phrase "comprising a sequence [consisting] of at least three contiguous amino acids..." was made to clarify that the active agent can include additional amino acids in addition to the requisite number of amino acids from the general formula. A similar amendment was made to clarify the scope of dependent claim 2. New claims 31-42 add further limitations to claim 1. The addition of claim 44 reciting contacting the cells with "erythropoietin" are supported, for example, at page 3, lines 18-22; page 15 line 19 to page 16 line 3. The addition of claim 43 reciting use of the method to treat anemia associated with the recited conditions is supported on page 3, lines 8-15 and elsewhere in the specification. Thus, the amendments and added claims do not constitute new matter.

REMARKS

In the parent case, the Examiner rejected claims 1-5 and 7 under 35 USC §103(a) as being obvious over Mrug et al. in light of Plucinska et al. Mrug teaches angiotensin II (AII), with isoleucine at position 5 to stimulate erythropoiesis. The Examiner asserted that the Plucinska reference teaches the peptide of SEQ ID NO:19, and that this peptide binds to the AT1 receptor. The Examiner further asserted that the similarity between AII and SEQ ID NO:19, coupled with their binding to the same receptor, would make it

obvious to use SEQ ID NO:19 to augment erythropoiesis. The Applicants traverse this rejection.

Neither of the cited references teaches or suggests the use of SEQ ID NO:19 to augment erythropoiesis, and combining the references does not cure the deficiency. Mrug teaches AII only to augment erythropoiesis, with no disclosure of SEQ ID NO:19. Plucinska et al. does not provide any discussion relating to erythropoiesis. Thus, the combination of references in no way makes obvious the desirability of using SEQ ID NO:19 for augmenting erythropoiesis.

However, solely to expedite allowance of certain aspects of the instant application, the claims have been amended to exclude active agents comprising the amino acid sequence of SEQ ID NO:19 for augmenting erythropoiesis. The Applicants reserve the right to pursue claims encompassing SEQ ID NO:19, in subsequent continuation applications.

3. Co-pending applications

The Applicants hereby notify the Examiner of the following commonly owned, co-pending applications that relate to the use of the active agents for other purposes:

09/210,249 filed December 11, 1998
09/198,806 filed November 24, 1998
09/012,400 filed January 23, 1998
09/264,563 filed March 8, 1999
09/287,674 filed April 7, 1999
09/307,940 filed May 10, 1999
09/246,162 filed February 8, 1999
09/255,136 filed February 19,1999
09/245,680 filed February 8, 1999
09/250,703 filed February 15, 1999
09/246,525 filed February 8, 1999
09/266,293 filed March 11, 1999

09/332,582 filed June 14, 1999
09/373,962 filed August 13, 1999
09/352,191 filed July 12, 1999
08/126,370 filed September 24, 1993
09/208,337 filed December 9, 1998
09/108,478 filed June 30, 1998
09/503,872 filed February 14, 2000
08/990,664 filed December 15, 1997

Based upon the foregoing remarks and amendments, the Applicants believe that the application is now in condition for allowance. If there is any problem, the examiner is respectfully invited to call the below signed attorney at (312) 913-2106.

Respectfully submitted,

McDonnell Boehnen Hulbert & Berghoff

Date: 9/8/2000

By: _____

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